CHAPTER V

PRIVILEGES AND IMMUNITIES OF EXPERTS ON MISSIONS FOR THE SPECIALIZED AGENCIES OF THE UNITED NATIONS AND CERTAIN OTHER INTERNATIONAL ORGANIZATIONS

The standard clauses of the Specialized Agencies Convention do not include any provisions corresponding to Article VI of the United Nations Convention pertaining to privileges and immunities of the experts sent on missions for the specialized agencies. According to Sub-Committee I of the Sixth Committee of the General Assembly of the United Nations, on Coordination of the Privileges and Immunities of the United Nations and of the Specialized Agencies, the reason for this exclusion is that all the specialized agencies do not require immunities of this character. However, the Sub-Committee stated that this did not imply that none of the specialized agencies required immunities of this sort. On the contrary, in its view, some of the specialized agencies might show "good and sufficient causes" for the grant of privileges and immunities to the experts in their particular cases. At the same time, the Sub-Committee made it clear that in this eventuality, the privileges and immunities to be granted to such experts should be less than those enumerated in Article VI of the United Nations Convention dealing with privileges and immunities of the experts sent on missions for the United Nations. The reason being that when the General Assembly adopted this provision in the United Nations Convention in London, it had in mind the experts sent on missions relating to peace and security in troubled areas of the world who would obviously require "more effective protection and greater immunities." The Sub-Committee pointed out correctly that such was not true in the case of the experts sent by the specialized agencies who would be required to deal with matters of a technical nature.¹ Since all the specialized agencies were not to have

¹ See for example, the report of the Committee on Standing Orders of the ILO Conference. The experts the report had in view are those whom the Governing Body of the ILO

privileges of this sort, the matter has been dealt with in the Annexes to the Convention and not in the standard clauses.\(^2\) The Annexes relating to the FAO, ICAO, WHO, IMCO, ILO, and the UNESCO are the only ones which provide for privileges and immunities of their experts. Paragraph 2 of the Annexes relating to the FAO, ICAO, WHO, and the IMCO \(^4\) and paragraph 3 of the Annexes relating to the ILO and the UNESCO, deal with such privileges and immunities. As far as the headquarters agreements and other relevant legal instruments are concerned, only the UPU, FAO, UNESCO, and the IAEA Headquarters Agreements and the British Order-in-Council relating to the IMCO \(^5\) contain detailed provisions on this subject. As far as the ILO, WHO, and the WMO Headquarters Agreements are concerned, the experts are dealt with expressly only in Article 14 (i)(d) under which they enjoy freedom of entry into, sojourn in, and departure from the Swiss territory. The word "experts" has not been used directly but can be said to be covered by the reference in Article 14 (i)(d) to persons summoned by the Organizations in question in connection with official business. Among the regional organizations, the Council of Europe alone contains an express reference to the experts in Article 5 of the Special Agreement relating to the seat of the Council of Europe according to which the "French authorities shall not interfere with the access to the seat of the Council", among others, of the "experts carrying out missions on behalf of the Council." Aside from this, the Special Agreement as well as the General Agreement relating to the Council of Europe do not contain specific provisions pertaining to privileges and immunities of the experts sent on missions by the Council. This clearly shows that

may appoint to a Commission of Inquiry under Article 26 of the revised constitution of the ILO to consider an alleged complaint by one Member of the ILO against another Member; or, those appointed to the ILO Committee of Experts on the Application of Conventions, entrusted with the task of considering the extent to which various Members of the ILO are applying the decisions of the ILO Conference; or, experts sent on missions by the ILO for the purpose of rendering technical assistance to governments who are "fairly often required to examine economic and social questions which have a delicate political aspect," or to "consider the relations between Governments and organized economic interests, including sometimes foreign interests." International Labour Conference, Thirty-First Session (San Francisco, 1948). Record of Proceedings, Appendix III, pp. 328–329.


3 Our treatment of the ILO throughout covered the WHO but in the case of the privileges and immunities of the experts, the WHO Annex differs in some respects from the ILO Annex. Therefore, we shall make a direct reference to the WHO in this regard.

4 The Annex relating to the IMCO has not been published as yet. A copy of it has been received from the Legal Counsel of the United Nations.

5 The 1955 British Order-in-Council relating to the IMCO which has been superseded by the present one, did not contain specific provisions relating to privileges and immunities of the experts.